



**Billing Code: 4520-43-P**

**DEPARTMENT OF LABOR**

**Mine Safety and Health Administration**

**Petitions for Modification of Application of Existing Mandatory Safety Standard**

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. Email: [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov) Include the docket number of the petition in the subject line of the message.
2. Facsimile: 202-693-9441.
3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and Variances, 201 12<sup>th</sup> Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect a copy of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (voice), barron.barbara@dol.gov (email), or 202-693-9441 (fax). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

## I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

## II. Petition for Modification

Docket Number: M-2018-019-C.

Petitioner: Knight Hawk Coal, LLC, 1710 State Route 154, Pinckneyville, Illinois 62274.

Mine: Prairie Eagle Underground Mine, MSHA I.D. No. 11-03147, located in Perry County, Illinois.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of nonpermissible, low-voltage or battery-powered electronic testing and diagnostic equipment in or inby the last open crosscut.

The petitioner states that:

(1) The nonpermissible electronic testing and diagnostic equipment would be limited to laptop computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices, signal analyzer devices, ultrasonic measuring devices, electronic component testers, and electronic tachometers.

(2) Permissible, approved voltage measuring instruments will be used when possible.

(3) All other testing and diagnostic equipment used in or inby the last open crosscut will be permissible

(4) Other testing and diagnostic equipment may be used if approved in advance by MSHA's District office.

(5) All nonpermissible, low-voltage or battery-powered electronic testing and diagnostic equipment to be used in or inby the last open crosscut will be examined prior

to use by a certified person to ensure equipment is being maintained in a safe operating condition.

(6) The results of such inspection will be recorded and retained for one year and made available to MSHA on request.

(7) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment in or inby the last open crosscut.

(8) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above one percent. When methane is detected at such levels while the nonpermissible electronic testing and diagnostic equipment is being used, the equipment will be deenergized immediately and withdrawn outby the last open crosscut.

(9) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(10) Coal production will cease, except for the time necessary to troubleshoot under actual mining conditions. Coal may remain in or on the equipment in order to test and diagnose the equipment under load. Accumulations of coal and combustible materials referenced in 30 CFR 75.400 will be removed before testing begins to provide additional safety to miners.

(11) Nonpermissible electronic test and diagnostic equipment will not be used to test equipment when float coal dust is in suspension.

(12) All electronic and diagnostic equipment will be used in accordance with the manufacturer's recommended safe use procedures.

(13) Qualified personnel engaged in the use of nonpermissible electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with the use of such equipment in areas where methane could be present.

(14) The nonpermissible electronic testing and diagnostic equipment will not be put into service until MSHA has inspected the equipment and determined that it is in compliance with all the above terms and conditions.

(15) Cables supplying power to low-voltage testing and diagnostic equipment will only be used when permissible testing and diagnostic equipment is unavailable.

(16) Within 60 days after the Proposed Decision and Order (PDO) becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the PDO.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

**Roslyn B. Fontaine,**

*Deputy Director,*

*Office of Standards, Regulations, and Variances.*

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